

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 664
94TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, March 15, 2007, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

2500S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 344.020, 344.030, 344.040, 344.050, 344.060, 344.070, 344.080, and 344.105, RSMo, and to enact in lieu thereof nine new sections relating to board of nursing home administrators.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 344.020, 344.030, 344.040, 344.050, 344.060, 344.070, 344.080, and 344.105, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 344.020, 344.030, 344.040, 344.050, 344.060, 344.070, 344.080, 344.105, and 344.108, to read as follows:

344.020. No person shall act or serve in the capacity of a nursing home administrator without first procuring a license from the Missouri board of nursing home administrators as provided in sections 344.010 to [344.100] **344.108**. The board may issue a separate license to administrators of assisted living facilities, as defined in section 198.006, RSMo. Any individual who receives a license to operate an assisted living facility is not thereby authorized to operate any intermediate care facility or skilled nursing facility as those terms are defined in section 198.006, RSMo.

344.030. 1. An applicant for an initial license shall file a completed application with the board on a form provided by the board, accompanied by an application fee [of one hundred dollars] **as provided by rule** payable to the [director of revenue] **department of health and senior services**. Information provided in the application [shall be given under oath subject to the penalties for making a false affidavit] **attested by signature to be true and correct to the best of the applicant's knowledge and belief**.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

8 2. No initial license shall be issued to a person as a nursing home
9 administrator unless:

10 (1) The applicant provides the board satisfactory proof that the applicant
11 is twenty-one years of age or over, of good moral character and a high school
12 graduate or equivalent;

13 (2) The applicant provides the board satisfactory proof that the applicant
14 has had a minimum of three years' experience in health care administration or
15 two years of postsecondary education in health care administration or has
16 satisfactorily completed a course of instruction and training prescribed by the
17 board, which includes instruction in the needs properly to be served by nursing
18 homes, the protection of the interests of residents therein, and the elements of
19 good nursing home administration, or has presented evidence satisfactory to the
20 board of sufficient education, training, or experience in the foregoing fields to
21 administer, supervise and manage a nursing home; and

22 (3) The applicant passes the [written examination] **examinations**
23 administered by the board. If an applicant fails to make a passing grade on [the
24 examination] **either of the examinations** such applicant may make application
25 for reexamination on a form furnished by the board and may be retested [at the
26 next regularly scheduled examination]. If an applicant fails [the examination]
27 **either of the examinations** a third time, the applicant shall be required to
28 complete a course of instruction prescribed and approved by the board [before the
29 applicant may reapply for examination]. **After completion of the board-**
30 **prescribed course of instruction, the applicant may reapply for**
31 **examination. With regard to the national examination required for**
32 **licensure, no examination scores from other states shall be recognized**
33 **by the board after the applicant has failed his or her third attempt at**
34 **the national examination.** There shall be a separate, nonrefundable fee for
35 each examination. The board shall set the amount of the fee for examination by
36 rules and regulations promulgated pursuant to section 536.021, RSMo. The fee
37 shall be set at a level to produce revenue which shall not substantially exceed the
38 cost and expense of administering the examination.

39 3. The board may issue a license through reciprocity to any person who
40 is regularly licensed as a nursing home administrator in any other state,
41 territory, or the District of Columbia, if the regulations for securing such license
42 are equivalent to those required in the state of Missouri. However, no license by
43 reciprocity shall be issued until the applicant passes a special examination

44 approved by the board, which will examine the applicant's knowledge of specific
45 provisions of Missouri statutes and regulations pertaining to nursing homes. The
46 applicant shall furnish satisfactory evidence that such applicant is of good moral
47 character and has acted in the capacity of a nursing home administrator in such
48 state, territory, or the District of Columbia, at least one year after the securing
49 of the license. The board, in its discretion, may enter into written reciprocal
50 agreements pursuant to this section with other states which have equivalent laws
51 and regulations.

52 4. Nothing in sections 344.010 to [344.100] **344.108**, or the rules or
53 regulations thereunder shall be construed to require an applicant for a license as
54 a nursing home administrator, who is employed by an institution listed and
55 certified by the Commission for Accreditation of Christian Science Nursing
56 Organizations/Facilities, Inc., to administer institutions certified by such
57 commission for the care and treatment of the sick in accordance with the creed
58 or tenets of a recognized church or religious denomination, to demonstrate
59 proficiency in any techniques or to meet any educational qualifications or
60 standards not in accord with the remedial care and treatment provided in such
61 institutions. The applicant's license shall be endorsed to confine the applicant's
62 practice to such institutions.

63 5. The board may issue a temporary emergency license for a period not to
64 exceed ninety days to a person twenty-one years of age or over, of good moral
65 character and a high school graduate or equivalent to serve as an acting nursing
66 home administrator, provided such person is replacing a licensed nursing home
67 administrator who has died, has been removed or has vacated the nursing home
68 administrator's position. No temporary emergency license may be issued to a
69 person who has had a nursing home administrator's license denied, suspended or
70 revoked. A temporary emergency license may be renewed for one additional
71 ninety-day period upon a showing that the person seeking the renewal of a
72 temporary emergency license meets the qualifications for licensure and has filed
73 an application for a regular license, accompanied by the application fee, and the
74 [examination has not yet been given] **applicant has taken the examination**
75 **or examinations but the results have not been received by the board.**
76 No temporary emergency license may be renewed more than one time.

344.040. 1. Every license issued under this chapter shall expire on June
2 thirtieth of the year following the year of issuance and every other year
3 thereafter, provided that licenses issued or renewed during the year 2006 may be

4 issued or renewed by the board for a period of either one or two years, as
5 provided by rule. Licensees seeking renewal shall, during the month of May of
6 the year of renewal, file an application for renewal on forms furnished by the
7 board, which shall include evidence satisfactory to the board of completion of the
8 approved continuing education hours required by the board, and shall be
9 accompanied by a renewal fee as provided by rule payable to the department of
10 health and senior services.

11 2. Upon receipt of an incomplete application for renewal, the board shall
12 grant the applicant a temporary permit which shall be in effect for thirty
13 days. The applicant is required to submit the required documentation or fee
14 within the thirty-day period, or the board may refuse to renew his **or her**
15 application. The thirty-day period can be extended for good cause shown for an
16 additional thirty days. Upon receipt of the approved continuing education credits
17 or other required documentation or fee within the appropriate time period, the
18 board shall issue a license.

19 3. The board shall renew the license of an applicant who has met all of
20 the requirements for renewal.

21 4. As a requirement for renewal of license, the board may require not
22 more than forty-eight clock hours of continuing education a year. The continuing
23 education provided for under this section shall be approved by the board. There
24 shall be a separate, nonrefundable fee for each single offering provider. The
25 board shall set the amount of fee for any single offering provided by rules and
26 regulations promulgated pursuant to section 536.021, RSMo. The fee shall be set
27 at a level to produce revenue which shall not substantially exceed the cost and
28 expense in administering and reviewing any single offering.

29 5. By April first of each year, the board shall mail an application for
30 renewal of license to every person whose license shall be renewed during the
31 current year. The applicant must submit such information as will enable the
32 board to determine if the applicant's license should be renewed. Information
33 provided in the application shall be [given under oath] **attested by signature**
34 **to be true and correct to the best of the applicant's knowledge and**
35 **belief.**

36 6. Any licensee who fails to apply to renew his **or her** license by June
37 thirtieth of the licensee's year of renewal may be relicensed by the board if he
38 meets the requirements set forth by the board pursuant to sections 344.010 to
39 [344.100] **344.108** and pays the renewal fee required by rule, plus a penalty of

40 twenty-five dollars. No action shall be taken by the board in addition to a
41 penalty of twenty-five dollars imposed by this section against any such licensee
42 whose license has not expired for a period of more than two months, and who has
43 had no action in the preceding five years taken against them by the board, and
44 who has met all other licensure requirements by June thirtieth of the year of
45 renewal; provided, however, that nothing in this section shall prevent the board
46 from taking any other disciplinary action against a licensee if there shall exist a
47 cause for discipline pursuant to section 344.050. A person whose license has
48 expired for a period of more than twelve months must meet the requirements set
49 out in section 344.030 for initial licensure.

344.050. 1. The board may refuse to issue or renew any certificate of
2 registration or authority, permit or license required pursuant to this chapter for
3 one or any combination of causes stated in subsection 2 of this section. The board
4 shall notify the applicant in writing of the reasons for the refusal and shall advise
5 the applicant of his **or her** right to file a complaint with the administrative
6 hearing commission as provided by chapter 621, RSMo. **As an alternative to**
7 **refusal to issue or renew any certificate, registration or authority,**
8 **permit or license, the board may, at its discretion, issue a license which**
9 **is subject to probation for any one or any combination of causes stated**
10 **in subsection 2 of this section. The board's order of probation shall**
11 **contain a statement of the discipline imposed, the basis therefore, the**
12 **date such action shall become effective, and a statement that the**
13 **applicant has thirty days to request in writing a hearing before the**
14 **administrative hearing commission. If the board issues a probationary**
15 **license to an applicant for licensure, the applicant may file a written**
16 **petition with the administrative hearing commission within thirty days**
17 **of the effective date of the probationary license seeking review of**
18 **whether cause exists to discipline the licensee under subsection 2 of**
19 **this section. If no written request for a hearing is received by the**
20 **administrative hearing commission within the thirty-day period, the**
21 **right to seek review of the board's decision shall be waived.**

22 2. The board may cause a complaint to be filed with the administrative
23 hearing commission as provided by chapter 621, RSMo, against any holder of any
24 certificate of registration or authority, permit or license required by this chapter
25 or any person who has failed to renew or has surrendered his **or her** certificate
26 of registration or authority, permit or license for any one or any combination of

27 the following causes:

28 (1) Use or unlawful possession of any controlled substance, as defined in
29 chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a
30 person's ability to perform the work of any profession licensed or regulated by
31 this chapter;

32 (2) The person has been finally adjudicated and found guilty, or entered
33 a plea of guilty or nolo contendere, pursuant to criminal prosecution under the
34 laws of any state or of the United States, for any offense reasonably related to the
35 qualifications, functions or duties of any profession licensed or regulated under
36 this chapter, for any offense an essential element of which is fraud, dishonesty
37 or an act of violence, or for any offense involving moral turpitude, whether or not
38 sentence is imposed;

39 (3) Use of fraud, deception, misrepresentation or bribery in securing any
40 certificate of registration or authority, permit or license issued pursuant to this
41 chapter or in obtaining permission to take any examination given or required
42 pursuant to this chapter;

43 (4) Obtaining or attempting to obtain any fee, charge, tuition or other
44 compensation by fraud, deception or misrepresentation;

45 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation
46 or dishonesty in the performance of the functions or duties of any profession
47 licensed or regulated by this chapter;

48 (6) Violation of, or assisting or enabling any person to violate, any
49 provision of this chapter, or of any lawful rule or regulation adopted pursuant to
50 this chapter;

51 (7) **Violation of, or assisting or enabling any person to violate,**
52 **any provision of chapter 198, RSMo, or any lawful rule or regulation**
53 **promulgated thereunder;**

54 (8) Impersonation of any person holding a certificate of registration or
55 authority, permit or license, or allowing any person to use [his] **such person's**
56 certificate of registration or authority, permit, license or diploma from any school;

57 [(8)] (9) Disciplinary action against the holder of a license or other right
58 to practice any profession regulated by this chapter granted by another state,
59 territory, federal agency or country upon grounds for which revocation or
60 suspension is authorized in this state;

61 [(9)] (10) A person is finally adjudged incapacitated or disabled by a
62 court of competent jurisdiction;

63 [(10)] **(11)** Assisting or enabling any person to practice or offer to
64 practice any profession licensed or regulated by this chapter who is not registered
65 and currently eligible to practice under this chapter;

66 [(11)] **(12)** Issuance of a certificate of registration or authority, permit
67 or license based upon a material mistake of fact;

68 [(12)] **(13)** Violation of the drug laws or rules and regulations of this
69 state, any other state or the federal government;

70 [(13)] **(14)** Knowingly failing to report abuse or neglect of a resident in
71 a long-term care facility, as required by section 198.070, RSMo, of which he **or**
72 **she** has actual knowledge that it is abuse or neglect;

73 **(15) Violation of any professional trust or confidence;**

74 **(16) Having served as the administrator, operator, or any**
75 **principal involved in the operation of a facility licensed under chapter**
76 **198, RSMo, and during such time the facility has had its license revoked**
77 **under section 198.036, RSMo, has entered into a consent agreement to**
78 **obtain a probationary license under subsection 5 of section 198.026,**
79 **RSMo, has had a license denied under subsection 2 of section 198.022,**
80 **RSMo, or has surrendered its license while under investigation.**

81 3. The administrative hearing commission shall have no authority to
82 require issuance of a license, pending a final determination by the commission,
83 in any case in which an applicant is seeking initial licensure.

84 4. No license may be suspended or revoked and no application for renewal
85 of a license may be denied under this section until the licensee has been afforded
86 an opportunity for hearing after due notice as provided in sections 621.015 to
87 621.205, RSMo.

88 5. Upon a finding by the administrative hearing commission that the
89 grounds, provided in subsection 2 of this section, for disciplinary action are met,
90 the board may, singly or in combination, [place upon probation,] **censure or**
91 **place the person named in the complaint on probation on such terms**
92 **as the board deems appropriate, or may** suspend or revoke [a] the
93 certificate [of registration or authority], permit or license. **The board may**
94 **exclude any application for up to five years for any person who has had**
95 **his or her license revoked by the board or has surrendered his or her**
96 **license to the board.**

 344.060. 1. The director of the department of health and senior services
2 shall appoint ten suitable persons who together with the director [of the division

3 of aging] of the department of health and senior services **or the director's**
4 **designee** shall constitute the "Missouri Board of Nursing Home Administrators"
5 which is hereby created within the department of health and senior services and
6 which shall have the functions, powers and duties prescribed by sections 344.010
7 to [344.100] **344.108**.

8 2. In addition to the director of the [division of aging] **department of**
9 **health and senior services** or [his] **the director's** designee the membership
10 of the board shall consist of one licensed physician, two licensed health
11 professionals, one person from the field of health care education, four persons who
12 have been in general administrative charge of a licensed nursing home for a
13 period of at least five years immediately preceding their appointment, and two
14 public members. **In addition to these qualifications, the physician, the**
15 **two licensed health care professionals, and the health care educator**
16 **shall be citizens of the United States and taxpaying residents of the**
17 **state of Missouri for one year preceding their appointments. The four**
18 **appointees who have been in general administrative charge of a**
19 **licensed nursing home shall be citizens of the United States and either**
20 **residents of the state of Missouri for one year preceding their**
21 **appointments or persons who have been licensed by the board and**
22 **whose five years of employment in a licensed nursing home**
23 **immediately preceding their appointment have occurred in the state of**
24 **Missouri. The public members shall be citizens of the United States,**
25 **residents of the state of Missouri for one year preceding their**
26 **appointment, and registered voters.** The public members shall be persons
27 who are not, or never were, licensed nursing home administrators or the spouse
28 of such persons, or persons who do not have or never have had a material,
29 financial interest in either the providing of licensed nursing home services or in
30 an activity or organization directly related to licensed nursing home
31 administration. Neither the one licensed physician, the two licensed health
32 professionals, nor the person from the health care education field shall have any
33 financial interest in a licensed nursing home.

34 3. The members of the board shall be appointed for three-year terms or
35 until their successors are appointed and qualified provided that no more than
36 four members' terms shall expire in the same year. All members appointed prior
37 to September 28, 1979, shall serve the term for which they were appointed. The
38 governor shall fill any vacancies on the board as necessary. Appointment to fill

39 an unexpired term shall not be considered an appointment for a full term. Board
40 membership, continued until successors are appointed and qualified, shall not
41 constitute an extension of the three-year term and the successors shall serve only
42 the remainder of the term.

43 4. Every member shall receive a certificate of appointment; and every
44 appointee, before entering upon his or her duties, shall take the oath of office
45 required by article VII, section 11, of the Constitution of Missouri.

46 5. Any member of the board may be removed by the director of the
47 department of health and senior services for misconduct, incompetency or neglect
48 to duty after first being given an opportunity to be heard in his **or her** own
49 behalf.

344.070. 1. The board shall annually elect one of its members as
2 president, another as vice president, and another as secretary. It shall adopt an
3 official seal. It shall file and preserve all written applications, petitions,
4 complaints, charges or requests made or presented to it. It shall cause to be kept
5 accurate records and minutes of its proceedings, and shall maintain a register of
6 the names and addresses of all persons holding licenses as nursing home
7 administrators. A copy of any entry in the register, or of any records or minutes
8 of the board, certified by the president or secretary of the board under its seal,
9 shall be received in evidence, to all intents and purposes as the original. The
10 board may employ such part- or full-time clerical assistance, purchase such
11 equipment and supplies, employ legal counsel, employ a part- or full-time
12 investigator, and incur travel and other expense, within the limits of its
13 appropriations.

14 2. The board shall adopt, amend and repeal rules and regulations
15 necessary to carry out the provisions of sections 344.030 to [344.100]
16 **344.108**. Any rule or regulation under the authority of sections 344.030 to
17 [344.100] **344.108** shall be promulgated in accordance with chapter 536,
18 RSMo. The committee on administrative rules may file a complaint in accordance
19 with the provisions of chapter 536, RSMo, before the commission contesting the
20 validity of any rule purportedly promulgated under the authority of sections
21 344.030 to [344.100] **344.108**. On filing any complaint in accordance with this
22 section, the administrative hearing commission shall immediately suspend that
23 portion of the rule which is challenged until the commission has determined the
24 matter. The commission shall hold a hearing within ten days of the filing to
25 determine the matter. No rule or portion of a rule promulgated under the

26 authority of this chapter shall become effective unless it has been promulgated
27 pursuant to the provisions of section 536.024, RSMo.

28 3. The board shall examine, license, and renew the license of duly
29 qualified applicants, and shall conduct hearings affording due process of law,
30 upon charges calling for discipline of a licensee. The board shall refer to the
31 appropriate prosecuting attorney information regarding any persons violating the
32 provisions of sections 344.010 to [344.100] **344.108** and may incur necessary
33 expenses therefor.

344.080. The members of the board, other than the director of the
2 [division of aging] **department of health and senior services** or his designee,
3 shall receive as compensation for their services fifty dollars for each day devoted
4 to the affairs of the board, and shall be entitled to reimbursement for their
5 expenses necessarily incurred in the discharge of their official duties.

344.105. 1. Any nursing home administrator possessing a current license
2 to practice as a nursing home administrator in this state who has maintained an
3 active license for at least ten years may retire his or her license by filing an
4 affidavit with the board which states the date on which the licensee retired from
5 such practice and such other facts as tend to verify the retirement as the board
6 may deem necessary. The affidavit shall be accompanied by a fee [of twenty-five
7 dollars] **as provided by rule**, made payable to the [division of aging]
8 **department of health and senior services**. Such request for retired status
9 may also be accomplished by signing the request for retired status that appears
10 on the nursing home administrator's application for license renewal and
11 returning such application to the board prior to June thirtieth of the year of
12 renewal of the administrator's active license, accompanied by a fee [of twenty-five
13 dollars] **as provided by rule**, made payable to the [division of aging]
14 **department of health and senior services**. Information provided in the
15 request for retired status shall be given under oath subject to the penalties for
16 the making of a false affidavit.

17 2. An individual who requests retired license status shall return his or
18 her original wall license and all other indicia of licensure to the board. Once the
19 board has received the original wall license from the licensee **or evidence**
20 **satisfactory to the board that the license has been lost, stolen, or**
21 **destroyed**, and the other requirements for requesting retired status have been
22 met, the board shall issue a new license to the licensee indicating that the
23 licensee is retired.

24 3. A retired license may be reactivated within five years of the granting
25 of the retired license by filing with the board evidence satisfactory to the board
26 of the completion of twenty clock hours of continuing education for each calendar
27 year the license was retired **accompanied by a fee as provided by rule**
28 **made payable to the department of health and senior services.** All clock
29 hours of continuing education shall be completed prior to the filing of the affidavit
30 or renewal form requesting reactivation of the retired license. If more than five
31 years have passed since the issuance of a retired license to a licensee, the licensee
32 shall follow the procedures for initial licensure stated in section 344.030.

33 4. No person shall practice as a nursing home administrator in this state
34 or hold himself or herself out as a nursing home administrator if his or her
35 license is retired.

36 5. Retired licensees shall remain subject to disciplinary action for
37 violations of this chapter and the rules promulgated thereunder.

344.108. 1. Any nursing home administrator possessing a current
2 **license to practice as a nursing home administrator in this state may**
3 **place such license on inactive status by filing a written signed request**
4 **for inactive status with the board, accompanied by evidence**
5 **satisfactory to the board of completion of ten clock hours of continuing**
6 **education in the area of patient care and a fee as provided by rule**
7 **made payable to the department of health and senior services. This**
8 **request may also be accomplished by signing the request for inactive**
9 **status that appears on the nursing home administrator's application for**
10 **license renewal and returning such application to the board prior to**
11 **June thirtieth of the year of renewal of the administrator's active**
12 **license, accompanied by evidence satisfactory to the board of the**
13 **completion of ten clock hours of continuing education in the area of**
14 **patient care and a fee as provided by rule made payable to the**
15 **department of health and senior services. Information provided in the**
16 **request for inactive status shall be given under oath subject to the**
17 **penalties of making a false affidavit.**

18 2. An individual who requests that his or her license be placed
19 on inactive status shall return all indicia of licensure to the board or
20 submit evidence satisfactory to the board that the license has been lost,
21 stolen, or destroyed.

22 3. An inactive license shall expire on June thirtieth of the second

23 year following the year of issuance and every other year
24 thereafter. Licensees seeking to renew shall, during the month of May
25 of the year of renewal, file an application for renewal on forms
26 furnished by the board that include evidence satisfactory to the board
27 of the completion of ten clock hours of continuing education in the area
28 of patient care and shall be accompanied by a renewal fee as provided
29 by rule, payable to the department of health and senior services.

30 4. A license may be carried in inactive status for up to six years
31 from the date of issuance. If the licensee does not reactivate the
32 license during the six-year period, the license shall expire on the last
33 day of the six-year period.

34 5. A holder of an inactive license may reactivate the license by
35 submitting a written request to the board, accompanied by evidence
36 satisfactory to the board of the completion or plan for completion of
37 forty clock hours of continuing education and a fee as provided by rule
38 made payable to the department of health and senior services. The
39 forty clock hours of continuing education shall be earned no earlier
40 than six months prior to the request for reactivation and no later than
41 twelve months after the inactive license has been reactivated. If the
42 holder of an inactive license requests reactivation prior to completing
43 the forty clock hours of continuing education, the board shall issue a
44 six-month interim license to the licensee. The interim license shall
45 expire six months from the date of issuance or at such earlier time as
46 the licensee earns the forty clock hours of continuing education and
47 submits evidence satisfactory to the board of completion of the
48 required hours.

49 6. A request for reactivation of an inactive license shall show,
50 under oath or affirmation of the nursing home administrator, a
51 statement that the nursing home administrator has not practiced
52 during the inactive period and is not presently practicing in this state.

53 7. No person shall practice as a nursing home administrator or
54 hold himself or herself out as a nursing home administrator in this
55 state while his or her license is inactive.

56 8. Inactive licensees shall remain subject to discipline for
57 violations of this chapter and the rules promulgated thereunder.